

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DIAGNOSTIC RESOURCE GROUP, L.L.C. *

PLAINTIFF *

VS. *

TOSHIBA AMERICA MEDICAL
SYSTEMS, INC. *

DEFENDANT *

Case No.: 02-CV-3020

(removed from Baltimore County
Circuit Court

Case #03-C-02-006016)

RESPONSE TO EMERGENCY REQUEST FOR EXTENSION OF TIME TO RESPOND
TO PLEADING BY PLAINTIFF

_____ Now comes the Plaintiff by its counsel, Samuel Sperling and the Law Office of Leonard J. Sperling, and responds to the emergency motion for extension of time filed by Defendant on or about August 14, 2003, and states:

1. That Samuel Sperling went on a long planned vacation from August 14, 2003 through August 24, 2003;
2. That in fact Samuel Sperling had been present in his office until 11:30 AM on August 14, 2003;
3. That as Mr. Schumm states, he had called the office of Mr. Samuel Sperling to address what appeared to be an incomplete production of documents filed with the Court and that he had spoken to Leonard J. Sperling who had advised that he could not address Mr. Schumm's concerns;
4. Mr. Leonard J. Sperling called Samuel Sperling by cellular telephone, and Mr. Samuel Sperling immediately called the office of Mr. Schumm;

5. At that time, Mr. Samuel Sperling was traveling through a somewhat hilly region of Pennsylvania and his cellular phone did not provide good reception;
6. Mr. Samuel Sperling later called Mr. Schumm's office again and left a detailed voice-mail message for Mr. Schumm, stating, *inter alia*, that all filings were correctly done in Mr. Sperling's view, and that Mr. Sperling consented to any needed extension;
7. Mr. Samuel Sperling properly served copies of his pleading of July 25, 2003 on Mr. Schumm by electronic service using ECF along with mail service of lengthy exhibits;
8. As a courtesy, Mr. Sperling also provided mail service of other pleadings;
9. Unfortunately, Mr. Schumm had returned from vacation on August 13, 2003 and Mr. Sperling had left for vacation on August 14, 2003 and thus counsel were unable to talk by telephone to sort out what appears to have been a confusing situation;
10. Mr. Samuel Sperling did further speak by telephone to Mr. Schumm on this date, August 25, 2003, the first business date after his return, and was told by Mr. Schumm that all documents have been pieced together;
11. Mr. Schumm filed his responsive pleading on August 19, 2003;
12. Plaintiff will address the contention of the Defendant that the Plaintiff's Cross Motion for Summary Judgment was improper in the Plaintiff's Reply pleading;
13. For that reason, Plaintiff contends that the Court should rule as follows:
 - A. That the filing of the Defendant on August 19, 2003 was timely;
 - B. That no other relief need be granted;
 - C. That no sanction issue as against any party;

Respectfully Submitted,

Samuel Sperling
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21208
410-653-0141
Counsel for Plaintiff

CERTIFICATION OF SERVICE

_____This is to certify that on this August 25, 2003, a copy of this pleading was sent by the following means to Brooke Schumm, counsel for Defendant:

1. Filing using ECF constituting service as Mr. Schumm is a registered user of the system;
2. E-mail to bschumm@danmclaw.com in both Adobe Acrobat and WordPerfect formats;

Samuel Sperling
SS24135